ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	IB Docket No. 95-22
Market Entry and Regulation of	)	RM-8355
Foreign-Affiliated Entities	)	RM-8392

To: The Commission

COMMENTS OF COLUMBIA COMMUNICATIONS CORPORATION

Columbia Communications Corporation ("Columbia"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's rules, hereby comments on the Commission's above-captioned Notice of Proposed Rulemaking. Market Entry and Regulation of Foreign-affiliated Entities, FCC 95-53 (released February 17, 1995) ("NPRM"). Columbia comments here to address particular equal access problems that have arisen in the market for international satellite services, and to endorse the Commission's conclusion that foreign carrier restrictions should not be applied to mere investment by foreign carriers in international separate systems and other non-common carrier facilities.

In the NPRM, the Commission states that its primary goal in the instant rulemaking is to promote effective competition in the global telecommunications market. See NPRM, FCC 95-53, slip op. at ¶ 27. In order to achieve that end, the Commission also seeks to prevent anti-competitive conduct in the provision of

international services or facilities, and to encourage foreign countries to open their communications markets. See id. at ¶¶ 28, 31.

Columbia supports the Commission's goals, which are essential to the health and future development of the global telecommunications industry. As the Commission correctly observes, at the present time "many important foreign communications services and facilities markets or market segments remain closed to U.S. competition, even while entities from those markets have entered or seek to enter similar U.S. markets." NPRM, FCC 95-53, slip op. at ¶ 22.

As one of the first operational international separate satellite systems, Columbia is fully aware of both the benefits that are offered by service providers in newly competitive markets and, on the negative side, the barriers erected by some foreign governments to impede such competition. Columbia is on record at the Commission in several ongoing proceedings supporting reciprocal access as a condition precedent to market access by foreign companies. It is therefore critical that the Commission seize the current proceeding as an ideal opportunity to set forth fair and explicit requirements for foreign service providers seeking entry, or expanded access, to the U.S. market.

As the Commission accurately states in the NPRM, "asymmetric market access is detrimental to both U.S. service providers and U.S. consumers." NPRM, FCC 95-53, slip op. at ¶ 22. For this reason, the Commission should not entertain suggestions that any sort of "interim" unilateral entry by foreign carriers from

countries with restricted markets is either fair or reasonable. Only unfettered competition will serve the Commission's goals and promote the opening of foreign markets. Entry of foreign carriers into the U.S. telecommunications market must thus occur solely on the basis of mutual and reciprocal access.

As the Commission proposes in the NPRM, this examination should be applied to both applications for Section 214 authorization and applications for satellite earth stations and other carrier facilities licensed under Title III. See NPRM, FCC 95-53, slip op. at ¶ 92. Where a foreign-affiliated entity seeks an FCC license to operate a new facility, any evaluation of the facility's public interest value should include a determination whether equivalent opportunities exist for U.S. companies to enter the entity's home market. Where such opportunities do not exist, the application should be deferred or denied.

Moreover, the Commission should extend its "access" analysis beyond the entity that actually applies for a Section 214 or Title III authorization; it should also examine the entity that controls the facilities to be used. The U.S. should reject applications that propose to use facilities under control of entities from countries that close their markets to U.S. companies capable of providing competing service. For example, overseas telephone and video traffic depends on access either to undersea cables or to international satellite capacity. Where countries deny "landing rights" to foreign providers of these services, a facilities bottleneck may be created, forcing potential customers to deal with the favored monopoly provider for communications

both to and from this nation. Such situations ultimately increase costs for U.S. consumers and businesses who require service between the United States and the affected country. In order to secure the benefits of competition to these customers, the Commission should not authorize use of facilities licensed by countries that deny market access to U.S. service providers.

Finally, Columbia also supports the Commission's conclusion in the NPRM not to apply market entry restrictions to carriers that do not themselves provide international facilities-based common carrier services, but merely participate as investors in separate satellite systems or other non-common carrier facilities. See NPRM, FCC 95-53, slip op. at ¶ 83. The Commission is correct that the public interest would be best served by pursuit of a narrowly-tailored policy in this area, requiring only those foreign carriers that actually seek to provide service to the U.S. market to meet the market entry standard and associated restrictions proposed in the NPRM. See id. Investment participation in separate systems by foreign carriers poses no risk of competitive harm to U.S. carriers. Indeed, refraining from such restrictions should help to promote increased competition in this still-emerging industry.

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For the foregoing reasons, Columbia supports the Commission's pursuit of the goal of true global competition in telecommunications. The Commission should

act decisively to encourage all nations to open their markets to foreign-owned entities by affirmatively denying the right to serve the U.S. market to companies from countries that do not yet permit reciprocal access. The Commission also should refrain from applying its proposed market entry standard to foreign carriers that merely participate as investors in separate satellite systems or other non-common carrier facilities.

Respectfully submitted,

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